

AMENDED IN ASSEMBLY APRIL 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 608

Introduced by Assembly Member Daucher

February 19, 2003

~~An act relating to state regulations.~~ *An act to amend Section 11591 of the Health and Safety Code, and to amend Section 291 of the Penal Code, relating to crimes.*

LEGISLATIVE COUNSEL'S DIGEST

AB 608, as amended, Daucher. ~~State regulations: appeal~~ *Crimes: school employees.*

Existing law requires every sheriff or chief of police, upon the arrest of a school employee for specified controlled substance offenses or sex offenses, to immediately notify specified school officials, including the Commission on Teacher Credentialing if the school employee is a teacher in a public school.

This bill would additionally require the Commissioner of the California Highway Patrol to give those notices upon the arrest of a school employee for those offenses.

Existing law requires the county superintendent of schools, upon receiving notice of the arrest of a public school teacher for those offenses, to immediately notify the governing board of the school district employing that person.

This bill would additionally require the Commission on Teacher Credentialing, upon receiving notice of the arrest, to immediately notify the governing board of the school district employing that person.

~~The Administrative Procedure Act generally sets forth the requirements for the adoption, publication, review, and implementation of regulations by state agencies. The act provides that any interested person may obtain a judicial declaration as to the validity of any regulation or order or repeal by bringing an action for declaratory relief in a superior court.~~

~~This bill would state the Legislature's findings that cities and counties, which are subject to numerous regulations adopted by state agencies, seek an alternative other than filing a court action to challenge the imposition of regulations by state agencies. This bill would declare the intent of the Legislature to adopt a procedure authorizing local government agencies to challenge regulations imposed by a state agency by filing an appeal directly to the Governor, who would be authorized to invalidate any state regulation if deemed appropriate based on the appeal.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 ~~SECTION 1. The Legislature hereby finds and declares all of~~
- 2 *SECTION 1. Section 11591 of the Health and Safety Code is*
- 3 *amended to read:*
- 4 11591. Every sheriff ~~or~~, chief of police, *or the Commissioner*
- 5 *of the California Highway Patrol*, upon the arrest for any of the
- 6 controlled substance offenses enumerated in Section 11590, or
- 7 Section 11364, insofar as that section relates to paragraph (12) of
- 8 subdivision (d) of Section 11054, of any school employee, shall do
- 9 ~~either one of the following:~~
- 10 ~~(1)–~~
- 11 (a) If ~~such~~ *the* school employee is a teacher in any of the public
- 12 schools of this state, ~~he or she~~ *the sheriff, chief of police, or*
- 13 *Commissioner of the California Highway Patrol* shall
- 14 immediately notify by telephone the superintendent of schools of
- 15 the school district employing ~~such~~ *the* teacher and shall
- 16 immediately give written notice of the arrest to the Commission
- 17 ~~for on Teacher Preparation and Licensing Credentialing~~ and to the
- 18 superintendent of schools in the county ~~wherein such~~ *where the*
- 19 person is employed. Upon receipt of ~~such~~ *the* notice, the county
- 20 superintendent of schools *and the Commission on Teacher*

Credentialing shall immediately notify the governing board of the school district employing ~~such~~ the person.

~~(2)~~

(b) If ~~such~~ the school employee is a nonteacher in any of the public schools of this state, ~~he or she~~ the sheriff, chief of police, or Commissioner of the California Highway Patrol shall immediately notify by telephone the superintendent of schools of the school district employing ~~such~~ the nonteacher and shall immediately give written notice of the arrest to the governing board of the school district employing ~~such~~ the person.

~~(3)~~

(c) If ~~such~~ the school employee is a teacher in any private school of this state, ~~he or she~~ the sheriff, chief of police, or Commissioner of the California Highway Patrol shall immediately notify by telephone the private school authority employing ~~such~~ the teacher and shall immediately give written notice of the arrest to the private school authority employing ~~such~~ the teacher.

SEC. 2. Section 291 of the Penal Code is amended to read:

291. Every sheriff ~~or~~, chief of police, or the Commissioner of the California Highway Patrol, upon the arrest for any of the offenses enumerated in Section 290 or in subdivision ~~+~~ (a) of Section 261, or Section 44010 of the Education Code of any school employee, shall do either of the following:

(a) If the school employee is a teacher in any of the public schools of this state, ~~he or she~~ the sheriff, chief of police, or Commissioner of the California Highway Patrol shall immediately notify by telephone the superintendent of schools of the school district employing the teacher and shall immediately give written notice of the arrest to the Commission ~~for~~ on Teacher Preparation and Licensing Credentialing and to the superintendent of schools in the county ~~wherein~~ where the person is employed. Upon receipt of the notice, the county superintendent of schools and the Commission on Teacher Credentialing shall immediately notify the governing board of the school district employing the person.

(b) If the school employee is a nonteacher in any of the public schools of this state, ~~he or she~~ the sheriff, chief of police, or Commissioner of the California Highway Patrol shall immediately notify by telephone the superintendent of schools of

1 the school district employing the nonteacher and shall
2 immediately give written notice of the arrest to the governing
3 board of the school district employing the person.

4 ~~the following:~~

5 ~~(a) Cities and counties are subject to numerous regulations~~
6 ~~adopted by state agencies.~~

7 ~~(b) Existing law authorizes state agencies to promulgate~~
8 ~~regulations pursuant to statutes enacted by the Legislature.~~

9 ~~(c) A city or county that seeks to challenge the imposition of~~
10 ~~regulations by a state agency is required to file a claim in a court,~~
11 ~~which is authorized to review state regulations based on particular~~
12 ~~legal standards.~~

13 ~~(d) Given that court proceedings frequently are lengthy and~~
14 ~~costly, cities and counties seek an alternative means for~~
15 ~~challenging the imposition of state regulations.~~

16 ~~(e) It is the intent of the Legislature to adopt a procedure~~
17 ~~authorizing local government agencies to challenge regulations~~
18 ~~imposed by a state agency by filing an appeal directly to the~~
19 ~~Governor, who would be authorized to invalidate any state~~
20 ~~regulation if deemed appropriate based on the appeal.~~

